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# Security Council

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## Letter dated 31 January 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached addendum to the fourth report from the Syrian Arab Republic, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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## Annex

[Original: Arabic]

### Letter dated 27 January 2006 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to my letter dated 20 April 2005, transmitting the fourth report of the Syrian Arab Republic to the Counter-Terrorism Committee, I have the honour to transmit herewith, upon instructions from my Government, an addendum to that report (see enclosure).

(*Signed*) Fayssal **Mekdad**
Ambassador
Permanent Representative

## Enclosure

## Addendum to the fourth report from the Syrian Arab Republic submitted to the Counter-Terrorism Committee

The Syrian Arab Republic mentioned, in its fourth report to the Counter-Terrorism Committee, that it was in the process of amending Legislative Decree No. 59 of 2003, on combating money-laundering, in order to make it a law on combating money-laundering and terrorist financing.

I have the honour to transmit, hereinafter, the text of Legislative Decree No. 33, dated 1 May 2005, on combating money-laundering and terrorist financing.

## Legislative Decree No. 33

The President of the Republic,

Acting in accordance with the provisions of the Constitution,

**Hereby decrees the following:**

**Article 1**

The following terms and expressions shall have, in the application of the present legislative decree, the respective meanings indicated below:

A. Money-laundering: any comportment intended to conceal or alter the identity of funds having a connection with unlawful operations by disguising their origins so that they appear to have originated in lawful operations;

B. Funds: assets of all types, whether tangible or intangible, movable or immovable, regardless of their manner of acquisition, and legal instruments or documents, whatever their form, including electronic and digital, constituting evidence of a right of ownership in such assets or a share therein, and everything arising from such ownership and any right connected therewith, including, by way of example and without limitation, national currency, foreign currencies, banking facilities, travellers cheques, bank cheques, money orders, shares, securities, bonds, documentary credits, drafts and bills of exchange;

C. Illegal funds: funds obtained or resulting from the perpetration of any of the following offences, whether occurring in the territory of the Syrian Arab Republic or abroad:

1. The growing, manufacturing, smuggling or transporting of, or illegal trafficking in, narcotic drugs or psychotropic substances;

2. Acts committed by criminal associations, as provided in articles 325 and 326 of the Penal Code, and all offences internationally considered as constituting organized crime;

3. Terrorist offences, as provided in articles 304 and 305 of the Penal Code or in the international, regional or bilateral agreements to which Syria is a party;

4. Smuggling or manufacturing of, or illegal trafficking in, firearms or parts thereof, munitions or explosives;

5. Unlawful conveyance of migrants, piracy or kidnapping;

6. Organized prostitution, trafficking in human beings or children or illegal trafficking in human organs;

7. Theft or smuggling of, or illegal trafficking in, nuclear, chemical, microbial or toxic materials;

8. Theft or embezzlement of public or private funds, seizure thereof by way of burglary or looting or by fraudulent means or unlawful transfer thereof through the use of computerized systems;

9. Counterfeiting of currency or other means of payment, government bonds, valuable papers or official documents or instruments;

10. Theft of or illegal trafficking in antiquities and cultural property;

11. Bribery or extortion offences;

12. Smuggling offences;

13. The use of registered trademarks by persons not the owners thereof or the infringement of intellectual property rights.

D. Agency for Combating Money-Laundering and the Financing of Terrorism: the authority responsible for all matters related to money-laundering and terrorist financing, hereinafter referred to as "the Agency". It shall have the character of prosecutor, while the competent courts shall have the power of final decision on related matters.

**Article 2**

A. Any act having any of the following aims shall be deemed the commission of a money-laundering offence:

1. The concealment of the true source of illegal funds by any means whatsoever or the provision of false evidence to substantiate such source;

2. The transfer or substitution of funds in the knowledge that they are illegal funds, for the purpose of concealing or masking the source or helping a person involved in the commission of an offence to evade responsibility;

3. The acquisition, possession, management, investment or use of illegal funds to purchase movable or immovable property or to carry out financial transactions in the knowledge that they are illegal funds.

B. Any act aimed at providing or collecting funds by any means, whether directly or indirectly, from lawful or unlawful sources, for the purpose of their being used in a terrorist act either within or outside the territory of the Syrian Arab Republic, according to the Syrian laws and regulations in force or international, regional or bilateral agreements to which Syria is a party, shall be deemed the commission of a terrorist-financing offence.

**Article 3**

Banking and financial institutions operating in Syrian free zones shall be subject to the provisions of this Legislative Decree and the related implementing directives issued by the Agency. In addition, they shall be subject to the provisions on banking supervision contained in article 89 of Law No. 23 of 2002, concerning the Central Bank of Syria and the basic monetary system, and Legislative Decree No. 34 of 1 May 2005, on banking secrecy.

**Article 4**

A. Establishments not coming under the Legislative Decree on banking secrecy, issued on 1 May 2005, including individually owned establishments and, in particular, money-changing establishments; money-transfer establishments; institutions issuing payment instruments such as credit and payment cards, travellers' cheques and electronic cash; investment funds and their administrations; financial intermediaries; leasing companies; investment or financial groups; insurance companies; and other financial institutions designated by the Agency; companies for the construction, promotion and sale of real estate; real estate brokerages; persons trading in high-value commodities (such as jewellery, precious stones, gold, objets d'art and rare objects) and such other non-financial establishments as are designated by the Agency shall be required to keep records of transactions the value of which exceeds a sum to be determined by decision of the Agency and also in connection with the establishment of a business relationship with long-term customers; in the case of transactions concerning which the suspicion arises that a customer is attempting to carry out money-laundering or terrorist-financing operations; in case of doubt concerning the veracity of information previously provided; or in the case of subsequent changes in the identity of a customer or the identity of the beneficial owner.

B. The entities specified in paragraph A of this article shall verify, on the basis of official documents, the identities and addresses of their clients and shall keep a copy of such documents and of documents pertaining to transactions and to the cases referred to above for a period of not less than five years from the completion of the transaction or the end of the relationship with the client, whichever is longer, so as to permit the Agency for Combating Money-Laundering and the Financing of Terrorism to make use of such documents if need be.

C. Paragraphs A and B of this article shall apply to lawyers, drafters of legal instruments and independent accountants when preparing or carrying out transactions on behalf of their clients in connection with the following activities:

- The sale and purchase of real estate;
- The management of their clients' funds, financial papers or any other assets;
- The management of banking accounts or savings or investment accounts on local or international financial markets;
- The organization of participations or contributions relating to the establishment, operation or management of companies;
- The establishment, operation or management of legal persons or arrangements and the sale or purchase of commercial entities.

**Article 5**

A. Banking and financial institutions registered with the Central Bank of Syria, including their foreign branches and foreign banking institutions subsidiary to them, are obliged to monitor the transactions they conduct with their clients, so as to avoid becoming involved in operations likely to conceal the laundering of illegal funds or the financing of terrorism.

B. The rules of such monitoring shall be defined in regulations promulgated in a decree issued by the Agency and comprising the following:

1. Verification of the true identity of the long-term clients of banking and financial institutions, and determination of the identity of the beneficial owner where business is transacted through agents or through numbered accounts or accounts whose holder is not the beneficial owner;

2. Application of the verification procedures indicated in paragraph B 1 of this article with respect to the identity of occasional customers if the value of the transaction exceeds a sum to be determined by decision of the Agency;

3. Application of the verification procedures indicated in paragraph B 1 of this article in the event that suspicion arises that a customer is attempting to carry out money-laundering or terrorist-financing operations, in the event of doubt concerning the veracity of information previously provided or in the event of subsequent changes in the identity of a customer or the identity of the beneficial owner;

4. Specification, when local or international bank transfers are effected, of the source and payee of the transfer in all cases, whether the transfer is outgoing or incoming. In addition, the economic justification for the transfer must be indicated if the transfer exceeds a specified sum of money, to be determined by decision of the Agency;

5. Keeping of copies of documents relating to all transactions and of official documents relating to the identity of clients for a period of at least five years following the completion of transactions or the closure of accounts, so as to permit the Agency for Combating Money-Laundering and the Financing of Terrorism to make use of such documents if need be;

6. Definition of indicators that point to possible money-laundering operations and of the principles of precaution and alertness that would permit the detection of suspicious operations;

7. Obligation of banking and financial institutions not to provide information inconsistent with the facts for the purpose of misleading the administrative and judicial authorities;

8. Obligation of banking and financial institutions to train their employees in ways and means of monitoring financial and banking transactions with a view to combating money-laundering and terrorist-financing operations;

9. Obligation of banking and financial institutions to appoint an officer or establish a committee charged with combating money-laundering and terrorist financing at the management level.

C. The internal auditors of public banks and the auditors of the Government Banking Commission of the Central Bank of Syria shall verify the compliance by banks and other financial institutions referred to herein with the provisions of the regulations specified in paragraph B of this article and report to the Agency for Combating Money-Laundering and the Financing of Terrorism any violation in that regard.

D. Banking and financial institutions registered with the Central Bank of Syria must exercise caution and remain alert in their dealings with correspondent banks so as to avoid involvement in suspicious operations, by gathering sufficient information regarding them to provide an understanding of the nature of their business and evaluating their internal procedures for combating money-laundering and terrorist financing with a view to ensuring the effectiveness thereof. Where it is not possible to gather such information, such dealings must be avoided altogether.

**Article 6**

Banking and financial institutions registered with the Central Bank of Syria and institutions not subject to the Legislative Decree on banking secrecy of 1 May 2005 must take special measures and exercise especial care in the case of:

(a) A customer or beneficial owner who is a politically exposed person, in which case such measures include obtaining the approval of the senior management of the said institutions for the establishment of a business relationship, conducting ongoing monitoring of such relationship and taking reasonable measures to establish the source of funds. Any individual entrusted with a public office or a high position in a foreign country shall be considered a politically exposed person;

(b) Operations which take place without the customer being present or by means of advanced technologies whereby it may not be necessary to state one's true identity;

(c) All complex or unusually large transactions and all unusual patterns of transactions which have no obvious economic purpose;

(d) Transactions carried out with natural or artificial persons, including banking and financial institutions, resident in countries appearing on the list of non-cooperative countries and territories in the field of money-laundering and terrorist financing issued by the Financial Action Task Force (FATF).

**Article 7**

The Central Bank of Syria has a new autonomous agency of a legal nature known as the Agency for Combating Money-Laundering and the Financing of Terrorism. The terms of reference of the Agency, which enjoys juridical personality, are defined as follows:

(a) To receive and analyse suspicious transaction reports and other information pertaining to money-laundering and terrorist-financing operations;

(b) To conduct financial inquiries into transactions suspected of involving the laundering of illegal funds or the financing of terrorism and to follow the principles and procedures laid down in this legislative decree;

(c) To furnish to the judicial authorities and others concerned with the application hereof the information requested by those authorities in connection with this legislative decree;

(d) To establish special procedures and forms for the implementation hereof and to oversee that implementation;

(e) To adopt rules for the exchange of available information by the Financial Intelligence Unit with counterparts in other countries in accordance with the rules and procedures laid down by the Syrian laws and regulations in force and the international, regional and bilateral agreements to which Syria is a party or on a basis of reciprocity.

**Article 8**

A. The Agency shall have a Management Committee made up as follows:

| | |
|---|---|
| – The Governor of the Central Bank of Syria | Chairman |
| – In his absence, the First Vice-Governor of the Central Bank of Syria shall act in his stead | |
| – The Second Vice-Governor of the Central Bank of Syria, supervisor of the Government Banking Commission | Member |
| – In his absence, the Director of the Government Banking Commission shall act in his stead | |
| – A judge appointed by the Supreme Judicial Council or whosoever may be appointed by him in his absence | Member |
| – Associate Minister of Finance | Member |
| – The Chairman of the Syrian Securities and Exchange Commission | Member |
| – An expert in legal, financial and banking affairs | Member |

B. The chairman and members of the Agency's Management Committee shall be appointed by a decision of the Prime Minister.

C. The Agency shall be represented before the courts by its Chairman.

D. The Agency's Management Committee shall appoint a bank comptroller belonging to the Government Banking Commission of the Central Bank of Syria as Secretary, to attend to such matters as may be entrusted to him by the Committee, carry out its decisions and directly supervise a number of auditors proposed by the Agency's Management Committee and charged by the Management Committee of the Central Bank of Syria with performing the Agency's tasks under the present Legislative Decree. The Secretary and the designated auditors shall be subject to all the requirements imposed on members of the Agency, not least that of maintaining banking secrecy.

E. The provisions of the Legislative Decree of 1 May 2005 on banking secrecy shall not under any circumstances be taken as grounds for objection in connection with the application of this legislative decree or with requests for information on the part of the Agency or persons to whom work is entrusted thereby.

F. The Agency's Management Committee alone shall have the right to decide to lift banking secrecy, in favour of the competent judicial authorities, in respect of accounts at banking or financial institutions suspected of having been used for money-laundering or terrorist-financing purposes.

G. The Agency shall have the right to enter into agreements or sign memorandums of understanding with counterpart foreign agencies for the purpose of information exchange or assistance relating to combating money-laundering and terrorist financing.

H. The Agency may, within the framework of its work, lift banking secrecy and conduct investigations on behalf of foreign counterparts in accordance with the rules and procedures defined by the Syrian laws and regulations in force or the international, regional and bilateral agreements to which Syria is a party, or on a basis of reciprocity.

I. The Agency's Management Committee shall meet, on being convened by the Chairman, once a month and whenever necessary. A quorum at such meetings shall be constituted by four members. Decisions of the Agency shall be adopted by a majority of the votes present and in the event of a tie, the Chairman shall have the casting vote.

J. The Agency's Management Committee shall draft rules of procedure for the conduct of its business and all its debates and decisions shall be secret.

K. The Chairman, members and Secretary of the Agency's Management Committee, with the exception of the judge, shall take the following oath before the civil court of first instance of Damascus prior to commencing their work: "I swear by Almighty God that I shall perform my work faithfully and honestly and that I shall maintain the secrecy of the information of which I gain knowledge".

L. Members of subsidiary bodies of the Agency and persons to whom it entrusts tasks shall take the same oath before the members of the Agency's Management Committee.

M. The Agency may publish periodic statistics on the number of suspicious transaction reports (STRs) received and disseminated, the number of investigations of money-laundering and terrorist financing, the number of proceedings instituted in that connection, the number of guilty verdicts handed down with regard to them, property frozen and seized and mutual legal assistance or other international requests for cooperation.

**Article 9**

A. The parties referred to in articles 4 and 5 above, the internal auditors of public banks, the auditors of the Government Banking Commission of the Central Bank of Syria and legal inspectors of accounts must report immediately to the Chairman of the Agency or his deputy the details of operations suspected of concealing the laundering of illegal funds or the financing of terrorism.

B. Reports obtained from the parties referred to in the preceding paragraph or from governmental or foreign authorities shall be forwarded within one business day to the Secretary of the Agency or, in his absence, his deputy, who shall, within a period of six business days, conduct his investigations and an an sis of the information provided concerning the suspicious account or accounts. ier directly

or through comptrollers authorized by him, under the supervision of the Chairman of the Agency or his deputy. He shall have the right to request the provisional freezing of the suspicious account or accounts for a non-renewable period of six business days, provided that such freezing shall be effected with the approval of the Chairman of the Agency or his deputy.

C. A meeting of the Agency's Management Committee must be convened during the said period. At the meeting, the Committee shall be informed concerning the report, all steps taken and the available results of the investigation. The Committee may then take a provisional decision to freeze the assets for a non-renewable period of 12 days if the source of the funds is still unknown or the funds are suspected of being derived from a money-laundering offence or intended for financing a terrorist act. During that period, the investigations shall continue and the persons charged with conducting them shall see to it that their tasks are performed secretly, provided that no objection may be made to them on the grounds of the legislative decree on banking secrecy of 1 May 2005.

D. The Agency may request that a natural or artificial person suspected of engaging in operations connected with money-laundering or terrorist financing submit documents or evidence showing the sources or movement of the funds suspected of being illegal.

E. After the investigations and financial analyses have been performed and during the period of freezing of the suspicious account or accounts, the Agency's Management Committee shall adopt a final decision either to release the account or accounts, if it has not become evident that the source of the funds is illegal, or to lift the banking secrecy from the suspicious account or accounts and continue the freeze. The grounds for the decision must be stated therein. In the event that, upon the expiration of the period referred to in paragraphs B and C above, the Agency has not issued any decision, the account shall be deemed legally unfrozen. Decisions of the Agency shall not be susceptible of administrative review of any kind.

F. Where it is agreed that banking secrecy is to be lifted, the Agency must send a certified copy of its final decision, setting forth the grounds therefor, to the public prosecutor of the governorate in which the main office of the bank with which the funds were deposited is located, with a view to the institution of legal proceedings. A copy shall also be sent to both the party and the bank concerned, as well as to the foreign authority, if any, concerned, either directly or through the authority through which the information was received.

**Article 10**

A. With a view to completing its investigations, the Agency shall have the right to request additional information from all parties that are subject to the reporting requirement and to examine details pertaining to matters connected with the investigations being conducted by it. Furthermore, the Agency may request such information and details from all official Syrian judicial, administrative, financial and security organs as well as from their foreign counterparts. Syrian organs must immediately comply with requests to supply the Agency with such information within the time limit set.

B. The Agency shall have the right to request that the General Customs Administration report to it on financial amounts transferred across the border in

material form or in the form of negotiable financial instruments the amount of which exceeds a sum to be determined by the Agency and which are declared on a form prepared by the Agency. The Agency may also establish a database of domestic and international monetary transactions which are carried out by banking and financial institutions and the amount of which exceeds a specified sum, to be used in questions of money-laundering and terrorist-financing.

**Article 11**

A. There is formed within the Agency a unit, to be known as the Financial Intelligence Unit, which shall have as its mandate the gathering, analysis and preservation of information connected with money-laundering and terrorist-financing offences and the exchange of such information with its foreign counterparts, under the supervision of the Chairman of the Agency. The Unit shall be required to communicate to the Agency periodically the information available to it relating to money-laundering and terrorist-financing offences. The members of the Unit shall be subject to all the obligations imposed on members of the Agency, in particular the obligation to maintain secrecy. The formation of the Unit shall be announced in a decision of the Agency's Management Committee.

B. The Agency's Management Committee shall propose the number of staff required for the Unit on the basis of work needs, define their duties and make the related appointments in a decision issued by the Governor of the Central Bank of Syria. The Agency shall take disciplinary measures against such staff should they fail to perform their duties properly, and such measures shall not preclude the possibility of criminal prosecution or civil action against them.

C. The Agency may, by a decision issued by its Management Committee, set up a unit to investigate reports received by the Agency and a unit to verify the steps taken by the institutions and establishments specified in articles 4 and 5 to combat money-laundering and terrorist financing, as well as any other units within the Agency which it deems necessary for its work. The members of such units shall be subject to all the obligations imposed on the members of the Agency, in particular the obligation to maintain secrecy. The determination of the number of staff in such units, their duties, their appointment and measures taken with respect to them shall be as provided in paragraph B of this article.

**Article 12**

Barring a decision of the Agency's Management Committee approving the lifting of banking secrecy, the reports provided for herein shall be made in absolute secrecy, whether they are made by natural or artificial persons. Documents submitted for such purposes and the documents and procedures of the investigation in its various stages shall also be characterized by secrecy.

**Article 13**

The Governor of the Central Bank of Syria entrusted with the chairmanship of the Agency, the Management Committee of the Central Bank, the members and Secretary of the Agency's Management Committee, the members of the Agency's units, all persons in its employ and persons charged with performing work on its behalf shall enjoy immunity: they may not be prosecuted nor may any legal action be taken against them for any civil liability or criminal responsibility in connection

with their performance of the duties provided for in the present legislative decree. Similarly, banking and financial institutions and other institutions subject to the reporting requirement, their directors and staff and persons who with good intentions engage in the reporting and detection of activities suspected of involving money-laundering or being connected with terrorist financing shall enjoy the same immunity.

**Article 14**

A. Anyone who undertakes or intervenes or participates in operations of laundering illegal funds derived from any of the offences provided for in article 1 hereof in the knowledge that such funds are derived from unlawful acts shall be punished, provided that the act is not subject to a severer penalty, by a term of confinement of from three to six years and a fine equal to the value of the funds seized or, in the event that they cannot be seized, a fine equal to the value of the funds, which shall not be less than 1 million Syrian pounds. In accordance with the provisions of article 247 of the Penal Code, the penalty shall be heavier if the offence is committed within the framework of an organized criminal gang. Anyone who undertakes or intervenes or participates in terrorist-financing operations shall also be punished in accordance with the foregoing.

B. Anyone who attempts to commit a money-laundering or terrorist-financing crime and any person participating or intervening therein or inciting to or concealing such crime shall receive the same punishment as the principal actor.

C. The penalty in paragraph A above shall be deemed criminal in nature.

**Article 15**

A. The competent court shall order the seizure of funds derived from the money-laundering and terrorist-financing offences referred to in the preceding article or obtained as a consequence thereof.

B. If the funds have been transferred or converted into funds of another type, they shall also be subject, in their alternative form, to seizure, and if illegal funds have been mixed with other, legal, funds, they shall be subject to seizure to the extent of the estimated value of the illegal funds, without prejudice to the right of the Agency to freeze the funds until the related investigation is carried out.

C. Income derived from illegal funds, alternative funds to which they have been converted and funds with which illegal funds have been mixed, as well as amounts payable in respect thereof, shall be subject to freezing and seizure to the same extent as illegal funds.

D. The Syrian judicial authorities may order the execution of final foreign judgements rendered by the competent foreign judicial authorities for the seizure of funds obtained from crimes of terrorist financing or crimes of money-laundering and revenue therefrom in accordance with the rules and procedures laid down in the Syrian laws and regulations in force or international, regional or bilateral agreements to which Syria is a party or with the principle of reciprocity. Bilateral or multilateral agreements may also be concluded to govern the disposal of the collected amount of funds whose seizure by the Syrian or foreign judicial authorities has been ordered in a final judgement in cases of money-laundering or terrorist-

financing offences, and may contain provisions stipulating the rules governing the apportionment of such collected amounts between the parties to the agreement.

E. The provisions of this article shall apply equally to natural and artificial persons.

**Article 16**

In addition to the penalties provided for in articles 13 and 14 hereof, judicial decisions shall contain provisions calling for the posting and publication of the judgement, the expulsion from Syrian territory of non-Syrians and persons considered virtually Syrian or their extradition to the authorities of their home countries, the closure of the premises involved, suspension of legal personality or, in the event of recidivism, cancellation of legal personality, provided, however, that the latter three provisions shall not apply to public entities, nor shall they affect the criminal responsibility of natural persons.

**Article 17**

Violations of the provisions of articles 4, 5, 6, 9 A, 11 A, 11 C or 12 hereof shall be punishable by three months' to one year's imprisonment and a fine of from 250,000 to 1 million Syrian pounds.

**Article 18**

The Syrian judicial authorities shall engage in mutual judicial cooperation with foreign judicial authorities, in respect of crimes of money-laundering and terrorist financing, in accordance with the rules and procedures laid down in the Syrian laws and regulations in force and international, regional or bilateral agreements to which Syria is a party or with the principle of reciprocity.

**Article 19**

A. The rules of procedure of the Agency and its units shall be promulgated by decision of the Prime Minister and shall specify the required number of posts based on the proposal of the Agency.

B. The manning table corresponding to such posts shall be issued in a decree and added to the manning table of the Central Bank of Syria.

C. The compensations and remunerations arising from the implementation of this legislative decree shall be determined by decree.

D. The additional financial burden imposed by the implementation of this legislative decree shall be borne by the banks operating in the Syrian Arab Republic and shall be considered part of the expenses of the Government Banking Commission of the Central Bank of Syria.

**Article 20**

Legislative decree No. 59 of 2003 is hereby abrogated.

**Article 21**

This legislative decree shall be published in the Official Gazette and shall be deemed to be in force from its date of promulgation.

Damascus, 22 Rabi' I A.H. 1426, corresponding to 1 May A.D. 2005

Bashar **Al-Assad**
President of the Republic